

LAW OFFICE OF THEODORE J. KOBAN

BANKRUPTCY SERVICES OF SOUTHEASTERN, MASSACHUSETTS

Thank you for contacting our office to ask about personal bankruptcy. The following are answers to many of the initial questions people have about the process of bankruptcy. Bankruptcy is complex. The answers contained in this guide are not a substitute for an in depth interview with a lawyer. If after reading these materials you feel as if bankruptcy might be helpful to you, please complete the worksheets at the end of this guide and call for an initial consultation.

What Does It Mean To File For Personal Bankruptcy?

Bankruptcy is a right provided in the U.S. Constitution that allows persons, whose debts exceed their ability to pay, to have their debts “discharged” (forgiven) by filing a proceeding in Court. Once the applicant receives a “discharge” his, or her, creditors can never attempt to collect upon the debt either by resort to the courts, wage garnishments or otherwise. The debts are totally forgiven. The applicant is given a “fresh start”.

Are All Debts Forgiven?

No. Not all. Credit card debt, personal loans and medical expenses are dischargeable in bankruptcy. Taxes, alimony and child support orders, student loans, debts for willful and malicious injuries inflicted upon another person, debts obtained fraudulently and several other types of debts are not affected. Creditors to whom you have given collateral (e.g., a mortgage on your house, or a lien on your car) will not be significantly affected by bankruptcy. If you keep paying the loan you will be able to keep the collateral.

Will I Lose Everything I Own If I File Bankruptcy?

Absolutely not! You are allowed to keep most of the property that you need to live. Most personal property and household goods are in this class of property. \$500,000 of the “equity” in a home is protected, as is a car of up to \$7,000 (two cars for married individuals) and the money in most pension plans. There are federal exemptions and Massachusetts exemptions. It is necessary to do a complete review of your assets to determine which set are best for you and your family. Assuming you can make payments

on your mortgage you should easily be able to keep your home, your car, and property deemed necessary for a “fresh start.”

Will Filing Bankruptcy Hurt My Credit?

Yes and no. Your filing for bankruptcy will be reported to credit agencies for ten (10) years and that will tend to make obtaining credit in the future more difficult but not impossible. However, since bankruptcy can only be declared once every eight (8) years some banks actually seek out persons who have gone through bankruptcy since they cannot get the protections of bankruptcy again for another eight (8) years. However, people who are contemplating filing usually have poor credit to begin. As strange as it may seem, the elimination of debt in bankruptcy can actually improve a credit score.

Will My Employer Be Notified?

Employers are not notified when a Chapter 7 or Ch 13 case is filed. It is, illegal for an employer to discriminate against a person for the reason that he or she has filed for the protections of bankruptcy.

What Do I Have To Do If I Think Filing Might Be Right For Me?

The first thing that needs to be done is to assemble all information available concerning your debts. I have attached a set of worksheets at the end of this Guide to help you assemble this information. Fill them out as best you can and then call us to set up a free initial consultation where we will review your financial situation and determine what bankruptcy option is best for you.

Are There Different Types Of Bankruptcy?

Yes. There is a Chapter 7 (liquidation) bankruptcy and a Chapter 13 (wage earner/payment plan) bankruptcy. In Chapter 7 a person lists out all of their personal assets and subtracts from that list the property “exempt” from their creditors. Whatever is left over is your “bankrupt estate”. If you have property in excess of the bankruptcy exemptions it is taken by a bankruptcy trustee and sold. Any money raised is distributed to your creditors. Any debts unpaid after this process are “discharged”.

Most consumer bankruptcy cases involve no loss of property!

In a Chapter 13 bankruptcy a person prepares a budget and determines how much money they can afford to pay their creditors. A budget (Plan) between three and five years is prepared. The budgeted amount of money is then given to a bankruptcy trustee on a

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monthly basis. The trustee pays your creditors for three years. At the end of the “plan” any remaining debts are forgiven. There is also a Chapter 11 bankruptcy available which permits a person or a business to obtain protections from its creditors while it attempts to reorganize, rehabilitate or liquidate itself. Most people file Ch 7's. Higher income individuals may be required to file Ch13.

You may have heard of Chapter 11 bankruptcies which are utilized by larger businesses. The fees and costs for filing are much higher than under Chapter 7 or 13.

How Do I Know If I Should File Under Chapter 7 or Chapter 13?

If you have assets that you cannot protect in Chapter 7 (and do not elect to surrender), or if you desire to pay your creditors as much as you can it is probably best to file Chapter 13. Chapter 13 can also be used to gain time to catch up on mortgage arrearage when the lender threatens you with foreclosure. A final strategy can only be made after consultation with an attorney. There is no simple answer that will be correct for everyone.

What Will Happen To Me Once I File?

When you file for any type of bankruptcy you will receive the protections of the “Automatic Stay” provisions of the Bankruptcy Act. Once bankruptcy is filed it is illegal for any of your creditors to attempt to collect monies you owe without going through the Bankruptcy Court. All lawsuits must stop! All telephone calls to your home or place of work must end! Garnishments must stop! The protections of the Bankruptcy Act take effect immediately upon your filing for protection without any further hearings or actions on your part.

How Long Will It Take?

An uncomplicated Chapter 7 bankruptcy will take approximately four to six months. A Chapter 13 wage earner bankruptcy will take from three to five years to complete.

What Should I Do If I Think I Need To File?

Please call our office to set up an initial consultation. Below is an information sheet and several worksheets you need to complete before you meet with us.

CALL 508-222-0700 OR E-MAIL US AT TKOBANESQ@EARTHLINK.NET TO SCHEDULE A FREE CONSULTATION TODAY.

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We are a debt relief agency. We help people file for bankruptcy using the US Bankruptcy laws.

LIST OF DEBTS

To prepare for our meeting would you please complete the following information. To the penny perfection is not necessary but please try to be accurate. The advice we give you is only as good as the information you provide:

- 1. Current amount required to pay off first Mortgage \$ _____
 - 2. Current amount required to pay off any home equity loan(s) \$ _____
 - 3. Current amount required to pay off auto loan(s) \$ _____
 - 4. Outstanding balance for all student loans \$ _____
 - 5 . Amount owed the IRS or Mass. Dept. Of Revenue \$ _____
 - 6. Total outstanding credit card debt balance \$ _____
 - 7. Total outstanding other debt (not listed above) \$ _____
- Total Outstanding debt..... \$ _____

Comments

LIST OF HOUSEHOLD INCOME FROM ALL SOURCES

AVERAGE FROM PAST 6 MONTHS

Spouse 1: Gross income: \$ _____ per _____ (week/2 weeks/twice monthly/monthly)

Spouse 1: Net take home income after deductions: \$ _____ per _____

Spouse 2: Gross income: \$ _____ per _____

Spouse 2: Net take home income after deductions: \$ _____ per _____

Other income in household (support, social security, pension, part-time jobs, business, etc.):
\$ _____ per _____ from what source(s)? _____

Does someone else pay your living expenses? How much per month?
\$ _____

Above should be the average of your total household income from the previous 6 months.

Spouse 1: Year to date gross income from all sources \$ _____

Spouse 2: Year to date gross income from all sources \$ _____

Gross income as shown on last Tax return; \$ _____

MONTHLY HOUSEHOLD LIVING EXPENSES

Rent or home mortgage payment \$ _____

Are real estate taxes included? Yes No

Is property insurance included? Yes No

Lot rent or 2nd mortgage \$ _____

Utilities \$ _____

Avg. **monthly** electric bill \$ _____

Avg. **monthly** heating bill \$ _____

Water and Sewer..... \$ _____

Telephone..... \$ _____

Avg. monthly land line bill \$ _____

Avg. monthly cell phone bill \$ _____

Internet Service/Cable \$ _____

Home maintenance (trash, repairs and upkeep - average monthly) \$ _____

Food and Grocery Items*..... \$ _____

Avg. **weekly** main grocery shop \$ _____

Avg. **weekly** fill in shops \$ _____

Avg. **weekly** coffee expense \$ _____

Avg. **weekly** meals at work \$ _____

Avg. **weekly** tobacco expense \$ _____

* Weekly will be multiplied by 4.33 weeks to calculate a month total

Clothing (12 month avg. monthly cost) \$ _____

Laundry and dry cleaning (monthly cost) \$ _____

Medical and Dental..... \$ _____

Avg. monthly prescription co-pays \$ _____

Avg. monthly medical co-pays \$ _____

Avg. monthly medical supplies \$ _____

Other \$ _____

Monthly Household Living Expenses, (Continued)

Transportation (not including car payments) \$ _____
Avg. **weekly** gas expense \$ _____
Avg. monthly repair/maintenance costs \$ _____

Recreation, sports, clubs, entertainment, newspapers, magazines, etc. \$ _____

Charitable contributions (include church tithing, giving) \$ _____

Insurance (monthly cost, not deducted from wages or included in home mortgage payments)

Homeowner's or renter's insurance (not included in house payment)..... \$ _____

Life Insurance, Health (what you pay, not taken from paycheck) \$ _____

Auto Insurance (monthly cost)..... \$ _____

Property taxes (monthly cost if not included in house payment)..... \$ _____

Car-1 or truck payment (monthly)..... \$ _____

Car-2 or truck payment (monthly)..... \$ _____

Payments for child support or alimony (monthly)..... \$ _____

Daycare for children, personal care, etc. \$ _____

Regular expenses from operation of a business, profession or farm
(attach detailed statement)

Avg. monthly hair cuts/salon cost..... \$ _____

Avg. monthly school lunch cost \$ _____

Avg. monthly cost school activity fees..... \$ _____

Other \$ _____

Total Average Monthly Expenses \$ _____

Have you filed bankruptcy before? _____

Are changes anticipated income or expenses within the next year? _____